

BROKER SERVICES AGREEMENT

THIS **BROKER SERVICES AGREEMENT** (this "Agreement"), effective March 23, 2017 (the "Effective Date"), is made by and between **YAMHILL COUNTY, a political subdivision of the State of Oregon** ("County"), and the Portland office of **BROWN & BROWN OF OREGON, LLC D/B/A BROWN & BROWN NORTHWEST** ("Broker").

Background

County wishes to retain Broker to perform certain specified insurance services as described in this Agreement. Broker wishes to perform such services according to the terms and conditions in this Agreement for the compensation set forth in this Agreement. The parties agree as follows:

1. **Term.** The term of this Agreement shall commence on the Effective Date and continue for a period of one (1) year, unless sooner terminated as herein provided.

2. **Relationship of Parties.** Broker is an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, a joint venture relationship or partnership relationship. In consideration of the compensation paid to the Broker by the County, Broker will provide services to the County as an insurance broker. County acknowledges that Broker, or its parent company, Brown & Brown, Inc. ("Parent"), and related or affiliated companies (collectively with Parent, "B&B Affiliates"), may provide services as an insurance agent on behalf of certain insurance carriers or risk-bearing entities. County expressly consents to such relationship, if applicable, in the rendition of services by Broker under this Agreement.

3. **Broker Services.** Broker, subject to the terms of this Agreement, shall provide certain services set forth in the attached Schedule A (the "Services"), but only in relation to the lines of insurance identified in Schedule A ("Lines of Insurance").

Nothing in this Agreement shall be construed to impose any obligations on Broker or limitations on Broker's compensation, relative to any lines of insurance or coverages other than as specifically delineated above.

4. **County Responsibilities.** In consideration of the Services provided by Broker, County agrees as follows:

(a) County shall cooperate fully with Broker and the insurance companies with whom Broker solicits in the performance of Broker's obligations under this Agreement.

(b) County shall timely produce and complete accurate information including, but not limited to, current financial information, statements of values, loss information and any other information, necessary for the effectuation of insurance coverage at the request of Broker. County further agrees to provide Broker with notice of any material changes in County's business operations, risk exposures or in any other material information provided under this Agreement. In addition, County shall carefully read each insurance policy issued to County in order to confirm the accuracy of the facts reflected therein and that the policy(ies) contain(s) the terms and coverages desired. County is responsible for recommending any changes to insurance policies issued to County.

(c) County shall timely pay all premiums and fees.

(d) County shall provide Broker with at least ninety (90) days notice in advance of any policy effective date in the event County intends to allow competing agents or brokers to solicit or market insurance to County.

5. **Compensation.** In consideration of the Services, County shall compensate Broker as set forth in Schedule B (the "Broker Services Fee"). With regard to the Broker Services Fee, County and Broker acknowledge and agree as follows:

(a) **The Broker Services Fee is not a part of, but rather is in addition to, any premium that may be paid by the County for the Lines of Insurance.**

(b) It is understood and agreed that Broker, or B&B Affiliates, may receive contingent payments or allowances from insurers based on factors which are not client-specific, such as the performance and/or size of an overall book of business produced with an insurer. Such contingent payments or allowances are not subject to this

Agreement, and will not be credited against the balance of the Broker Services Fee owed to Broker pursuant to this Agreement or paid to Company.

(c) Broker may utilize insurance intermediaries (such as a wholesale insurance broker, managing general agent (MGA), managing general underwriter or reinsurance broker) for the placement of County's insurance. In addition to providing access to the insurance company, the intermediary may provide the following services: (i) risk placement; (ii) coverage review; (iii) claims liaison services with the insurance company; (iv) policy review; and (v) current market intelligence. The compensation received by the insurance intermediary for placements and, if applicable, the services above is typically in the range of 5% to 15% of policy premium. There may be an intermediary utilized in the placement of your insurance, which may or may not be a B&B Affiliate. Any payments or allowances paid to the intermediary are not subject to this Agreement, and will not be credited against the balance of the fee owed to Broker pursuant to this Agreement or paid to County.

(d) If County chooses to finance its premiums, Broker may assist County in the arrangement of such financing. Any payments or allowances paid to Broker for arranging premium financing are not subject to this section, and will not be credited against the balance of the fee owed to Broker pursuant to this Agreement or paid to County.

(e) Broker may, in the ordinary course of its business, receive and retain interest on premiums paid by the County from the date received by Broker until the date the premiums are remitted to the insurance company or intermediary. Any interest income retained by Broker on these premiums are not subject to this section, and will not be credited against the balance of the fee owed to Broker pursuant to this Agreement or paid to County.

(f) Compensation for the Services specified under this Agreement is exclusive of all federal, state and local sales, use, excise, receipts, gross income and other similar taxes and governmental charges and fees. Any such taxes, charges or fees for the Services under this Agreement, now imposed or hereafter imposed during the term of this Agreement, shall be in addition to the compensation, premiums and charges set forth in this Agreement and shall be paid by County upon request.

(g) County acknowledges and agrees that the Broker Services Fee is reasonable in relation to the Services to be provided by Broker hereunder.

6. **Confidentiality.** To the extent consistent with performances of Broker's duties under this Agreement, Broker and County agree to hold in confidence Confidential Information (defined below). County acknowledges, however, that Broker will disclose Confidential Information as reasonably required in the ordinary course of performing the Services to insurance companies and other insurance intermediaries. "**Confidential Information**" means all nonpublic information and all documents and other tangible items (whether recorded information, on paper, in computer readable format or otherwise) relating to the disclosing party's business (including without limitation business plans, manner of doing business, business results or prospects), proposals, recommendations, marketing plans, reports, any of which (i) at the time in question is either protectable as a trade secret or is otherwise of a confidential nature (and is known or should reasonably be known by receiving party as being of a confidential nature) and (ii) has been made known to or is otherwise learned by receiving party as a result of the relationship under this Agreement. Confidential Information should be protected with the same reasonable care as each party protects its own Confidential Information.

Confidential Information will not include any information, documents or tangible items which (i) are a matter of general public knowledge or which subsequently becomes publicly available (except to the extent such public availability is the result of a breach of this Agreement), (ii) were previously in possession of receiving party as evidenced by receiving party's existing written records, or (iii) are hereafter received by receiving party on a non-confidential basis from another source who is not, to receiving party's knowledge, bound by confidential or fiduciary obligations to disclosing party or otherwise prohibited from transmitting the same to receiving party. In the event that Broker or County become legally compelled to disclose any of the Confidential Information, they shall provide the other party with prompt notice so that such party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. In the event that such protective order or other remedy is not obtained, or that the other party waives compliance with the provisions of the Agreement, such party may disclose such information as is necessary or advisable to comply with the legal process.

7. **Termination.**

(a) Either party may terminate this Agreement, without cause and for any reason whatsoever, by giving written notice of termination to

the other party at least ninety (90) days prior to the effective date of termination, which shall be specified in such written notice.

(b) Notwithstanding the provisions in sub-paragraph (a) above, County may terminate this Agreement upon the happening of any one of the following causes: (i) Suspension or termination of Broker's insurance license in the State of Oregon if not cured by Broker within sixty (60) days following such suspension or termination; (ii) Broker's participation in any fraud; or (iii) Broker's material failure to properly perform its duties and responsibilities hereunder because of Broker's gross neglect, proven dishonesty, or commission of a felony.

(c) Notwithstanding the provisions in sub-paragraph (a) above, Broker may terminate this Agreement upon the happening of any one of the following causes: (i) County's failure to pay any Broker Services Fee more than five (5) days after such payment is due; (ii) County's participation in any fraud; or (iii) County's material failure to properly perform its duties and responsibilities hereunder because of County's gross neglect, proven dishonesty, or commission of a felony.

Termination for any cause enumerated in sub-paragraphs (b) or (c) shall become effective upon the delivery of written notice of termination to the breaching party or at such later time as may be specified in the written notice.

(d) Termination of this Agreement shall not release County from any accrued obligation to pay any sum to Broker (whether then or thereafter payable) or operate to discharge any liability incurred prior to the termination date.

8. **Notices.** Any notices required or permitted to be given under this Agreement shall be sufficient if in writing by Certified Mail to:

If to County:

Yamhill County
434 NE Evans Street
McMinnville, Oregon 97128
Attn: Ken Huffer
Email: hufferk@co.yamhill.or.us

If to Broker:

Brown & Brown of Oregon, LLC
D/B/A Brown & Brown Northwest

2701 NW Vaughn Street, St. 340
Portland, Oregon 97210
Attn: Jessica Getman
Email: jgetman@bbnw.com

With a copy to:

Brown & Brown, Inc.
220 S. Ridgewood Avenue
Daytona Beach, FL 32114
Attn: General Counsel
Email: legaldept@bbins.com

or such other address as either shall give to the other in writing for this purpose.

9. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision.

10. **Oregon Law Applies; Venue.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Oregon, without regard to its conflicts of laws principles. Exclusive venue is agreed to be in a state or federal court of competent jurisdiction in or for Yamhill County, Oregon.

11. **Limitation of Liability; Waiver of Jury Trial.** THE PARTIES WAIVE ANY RIGHT TO A TRIAL BY JURY IN THE EVENT OF LITIGATION ARISING OUT OF THIS AGREEMENT. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING LOSS OF PROFITS, REVENUE, DATA OR USE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

12. **Assignment.** Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and permitted assigns.

13. **Entire Agreement.** This Agreement (including the schedules, documents and instruments referred to herein or attached hereto) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to the subject

matter hereof. The Agreement shall not be modified
except by a written agreement dated subsequent to
the date of this Agreement and signed on behalf of

County and Broker by their respective duly authorized
representatives.

[Remainder of page intentionally left blank – Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

COUNTY:

Yamhill County, a political subdivision of the State of Oregon

By: 
Name: Stan Primozich
Title: Chair, Board of Commissioners

BROKER:

Brown & Brown of Oregon, LLC
d/b/a Brown & Brown Northwest
an Oregon limited liability company

By: 
Name: Jessica Gelman
Title: President

Accepted by Yamhill County
Board of Commissioners on
3-23-17 by Board Order
17-91

SCHEDULE A

BROKER SERVICES

Subject to the terms of this Broker Services Agreement, Broker shall provide the Services listed below, but only in relation to the following Lines of Insurance: (a) Property; (b) Earthquake; (c) Flood; (d) Equipment Breakdown; (e) Inland Marine; (f) Auto; (g) Crime; (h) Liability; (i) Employment Practices; (j) Directors & Officers; (k) Professional Liability; (l) Pollution; and (m) Special Risk.

Services are as follows:

- a. Evaluate County's business practices with regard to risk and possible transfer of risk to third parties and conduct regular, scheduled meetings with County to review County's risk management program.
- b. Review and analyze County's existing insurance coverage and identify potential lines of coverage or coverage enhancements to improve County's insurance program.
- c. Analyze current insurance market conditions and advise County of significant implications for County's insurance program.
- d. Facilitate, market, and procure quotations from carriers; review and analyze quotations and provide proposals for review by County.
- e. Secure and bind all coverage accepted by County
- f. Coordinate loss prevention services provided by any insurance company with those services provided by Broker.
- g. Analyze past and current claim and loss history information and advise County of significant implications for County's insurance program.
- h. Schedule of Services as contained in Agent of Record RFP submitted by Broker are incorporated herein to this Agreement by reference.

SCHEDULE B

COMPENSATION

Broker Services Fee:

In consideration of the Services, County shall compensate Broker (the "Broker Services Fee") as follows:

March 23, 2017 – June 30, 2018	\$30,000
July 1, 2018 – June 30, 2019	\$30,900
July 1, 2019 – June 30, 2020	\$31,827
July 1, 2020 – June 30, 2021	\$32,781
July 1, 2021 – June 30, 2022	\$33,764

The Broker Services Fee, in this first year shall be fully earned and payable upon County's execution and delivery of this Agreement and on the anniversary date of each year thereafter during the term of this Agreement. The Broker Services Fee is not a part of, but rather is in addition to, any premiums that may be paid by the County for the Lines of Insurance.

Note: Yamhill County Workers' Compensation coverage will be on a commission basis and not subject the Broker Services Fee.

Insurer Commissions:

Broker agrees that it will not receive any commission for the placement of County's insurance business pursuant to this Agreement. If Broker receives any such commission payments from an insurer in error or otherwise, Broker agrees to refund the Broker Service Fees in the amount of such commission payment, credit the commission against the Broker Services Fee or take such other action, if any, as shall in all cases comply with applicable law.